

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SAMANTHA REYES IND. AND
A/N/F OF MINOR A.R.

VS.

MASRI TRANSPORT, LLC

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Civil Action No.: 4:22-cv-771

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF THIS COURT:

Defendant, Masri Transport, LLC files this Notice of Removal, pursuant to 28 U.S.C. §§ 1441 and 1446, removing this dispute to the United States District Court for the Southern District of Texas, Houston Division.

PENDING STATE SUIT

1. On February 8, 2022, Plaintiff commenced an action in the 333rd Judicial District Court of Harris County, Texas, captioned Cause No. 2021-51202; *Samantha Reyes Ind. and a/n/f of Minor A.R. v. Masri Transport, LLC*, in which Plaintiff seeks damages allegedly resulting from a motor vehicle collision that purportedly occurred on or about September 22, 2020 in Harris County, Texas. *See* Plaintiff's Original Petition at Section IV (unnumbered paragraphs), Ex. A.

GROUND FOR REMOVAL

2. The state court action is one over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332, and may be removed to this Court pursuant to the provisions of 28 U.S.C. § 1441, in that it is a civil action wherein the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and diversity of citizenship exists between the properly joined parties.

A. Amount In Controversy Exceeds \$75,000

3. Under 28 U.S.C. §1446(c)(2), if removal is sought on the basis of the jurisdiction conferred by 28 U.S.C. §1332, the sum demanded in good faith in the initial pleadings shall be deemed to be the amount in controversy. *See* 28 U.S.C. §1446(c)(2). In her Original Petition, Plaintiff claims: “As a result of Defendants’ [*sic*] negligent conduct, Plaintiffs suffered severe injuries and damages.” *See* Plaintiff’s Original Petition at Section IV, Ex. A. Plaintiff seeks to recover damages for past and future: physical pain and mental anguish; medical care and treatment; physical impairment and disfigurement; and lost wages and lost earning capacity. *Id.* Section VII.

4. Additionally, Plaintiff specifically pleads that she seeks “[m]onetary relief greater than \$1,000,000.00.” *Id.* at Section VIII. Therefore, Plaintiff clearly believes her damages are more than \$75,000.

B. Diversity of Citizenship

5. Plaintiff, Reyes and the minor, A.R., are citizens of Texas. *See* Plaintiff’s Original Petition at Section II.

6. Defendant, Masri Transport, LLC is a limited liability company existing under the laws of the State of California with its principal place of business in the State of California, and that information is a matter of public record and is easily accessible by anyone.

PROCEDURAL REQUIREMENTS FOR REMOVAL

7. Upon filing of this Notice of Removal of the cause, Defendant gave written notice of the filing to Plaintiff and her counsel as required by law. A copy of this Notice is also being filed with the Clerk of the Court in Harris County, Texas, where this cause was originally filed. A copy of all processes, pleadings, and orders has been filed separately with this Court pursuant

to 28 U.S.C. § 1446(a). This removal is timely filed, as Defendant has never been properly served. As noted in Plaintiff's Original Petition, Defendant's registered agent is Ahmed Mahmoud. *See* Plaintiff's Original Petition at Section II. The applicable Affidavit of Service indicates that the citation and Plaintiff's Original Petition were "deliver[ed] to Amber Thomas in front office," and not to Mr. Mahmoud. *See* Exhibit B. Texas Rule of Civil Procedure 106(a)(1) very specifically requires that a citation shall be served by "delivering [it] to the defendant, *in person*."¹ Mr. Mahmoud, Defendant's registered agent, was not served with process in person, and no substituted service has been authorized.

STATE COURT DOCUMENTS

8. The following documents are attached to this Notice of Removal:

Exhibit "A" Plaintiff's Original Petition

Exhibit "B" Proof of Service

Exhibit "C" An index of matters being filed.

C-1 Copy of the state court Docket Sheet/Record.

C-2 Copy of process.

C-3 A list of all counsel of record, addresses, telephone numbers, and parties.

C-4 Civil Cover Sheet

TIMING OF REMOVAL

9. Defendant, Masri Transport, LLC has never been properly served with Plaintiff's Original Petition. As such, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b).

¹ Tex. R. Civ. P. 106(a)(1) (emphasis added).

VENUE

10. This is a statutorily proper venue under the provisions of 28 U.S.C. § 1441(a) because this district and division embrace the county where the removed action was pending.

JURY DEMAND

11. Defendant hereby requests a trial by jury pursuant to FED. R. CIV. P. 38.

PRAYER

12. Defendant has established that the amount in controversy exceeds \$75,000.00. Additionally, Defendant has established that diversity of citizenship exists between the parties in this case. For these reasons, and in conformity with 28 U.S.C. § 1446, Defendant respectfully removes the civil action captioned Cause No. 2021-51202; *Samantha Reyes Ind. and a/n/f of Minor A.R. v. Masri Transport, LLC*, in the 333rd Judicial District Court of Harris County, Texas. Defendant prays for such other and further relief, both general and special, at law and in equity, to which it may be justly entitled.

Respectfully submitted,

/s/Andrew S. Krone

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ATTORNEYS FOR DEFENDANT,

MASRI TRANSPORT, LLC

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been forwarded to all counsel of record via Electronic Court Filing on this 10th day of March 2022.

/s/ Andrew S. Krone
Les Pickett
Andrew S. Krone